

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF VIRGINIA
NORFOLK DIVISION

IN RE:
ANTONIO CORNELIUS FRANCES
AND
VIVIAN ANN FRANCES
Debtors

BCN #: 13-71387\SCS
Chapter: 7

NOTICE OF MOTION

OneWest Bank, FSB has filed papers with the court to request an order granting relief from the Automatic Stay.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the court to grant the relief sought in the Motion, or if you want the court to consider your views on the Motion, then on or before May 16, 2013, you or your attorney must:

- File with the court, at the address shown below, a written request for a hearing [or a written response pursuant to Local Bankruptcy Rule 9013-1(H)]. If you mail your request for hearing (or response) to the court for filing, you must mail it early enough so the court will receive it on or before the date stated above.

Clerk of Court
United States Bankruptcy Court
600 Granby Street
Room 400
Norfolk, VA 23510

You must also mail a copy to:

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

- Attend a hearing to be scheduled at a later date. You will receive separate notice of hearing. If no timely response has been filed opposing the relief requested, the court may grant the relief without holding a hearing.

Susan C. Meyer, Esq.
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462 Attorneys for OneWest Bank, FSB

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

13-232714

Dated: May 2, 2013

SHAPIRO BROWN & ALT, LLP
Attorneys for OneWest Bank, FSB

By: /s/ Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

CERTIFICATE OF SERVICE

I certify that I have this 2nd day of May, 2013, electronically transmitted and/or mailed by first class mail, postage pre-paid, a true copy of the foregoing Notice of Motion to the following:

Steve C. Taylor
Law Offices of Steve C. Taylor, P.C.
133 Mt. Pleasant Road
Chesapeake, VA 23322

John C McLemore
John C. McLemore, P.C.
500 E. Main Street, Suite 1210
Norfolk, VA 23510

Antonio Cornelius Frances and Vivian Ann Rances
241 COACHMAN DRIVE
Chesapeake, VA 23325

/s/ Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445

United States Bankruptcy Court
Eastern District of Virginia
Norfolk Division

In RE:
Antonio Cornelius Frances and Vivian Ann
Frances
Debtors

BCN#: 13-71387\SCS
Chapter: 7

OneWest Bank, FSB

Movant/Secured Creditor,

v.

Antonio Cornelius Frances and Vivian Ann
Frances
Debtors

Motion for Order Granting Relief from
Automatic Stay

and

John C McLemore
Trustee
Respondents

OneWest Bank, FSB, alleges as follows:

1. The bankruptcy court has jurisdiction over this contested matter pursuant to 28 U.S.C. § 157 and § 1334 and 11 U.S.C. § 362; Federal Rule of Bankruptcy Procedure 9014; and Local Bankruptcy Rule 4001(a)-1.

2. The above named Debtors filed a Chapter 7 Petition in Bankruptcy with this Court on April 15, 2013.

3. John C McLemore has been appointed by this Court as the Chapter 7 Trustee in this instant Bankruptcy proceeding.

4. Movant, OneWest Bank, FSB, is the current holder of the subject note secured by the subject Deed of Trust. The original deed of trust holder was FINANCIAL FREEDOM SENIOR FUNDING CORPORATION, A SUBSIDIARY OF INDY MAC BANK, F.S.B, with Mortgage Electronic Registration Systems, Inc., as beneficiary, solely as nominee for the Lender. The beneficial interest in the aforesaid Deed of Trust has been assigned to the Movant as evidenced by the Assignment dated February 6, 2013. The note was originated by FINANCIAL Susan C. Meyer, Esq.

SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215

Virginia Beach, Virginia 23462 Attorneys for OneWest Bank, FSB

FREEDOM SENIOR FUNDING CORPORATION, A SUBSIDIARY OF INDY MAC BANK, F.S.B who endorsed the note in blank. OneWest Bank, FSB has possession of the original Note. A copy of the Assignment, Deed of Trust, and Note are attached hereto and incorporated herein by reference.

5. The subject deed of trust secures a parcel of real property (hereinafter "the Property") with the address of 241 COACHMAN DRIVE, Chesapeake, VA 23325 and more particularly described in the Deed of Trust dated October 31, 2006 and recorded as Deed Book/Instrument Number 6823, Page 589 among the land records of the said city/county, as:

ALL THAT certain lot, piece or parcel of land, with the buildings and improvements thereon, lying, situate and being in the City of CHESAPEAKE, Virginia, and being known, numbered and designated as LOT 5, in Block U, as shown on that certain plat entitled "Subdivision of GEORGETOWN COLONY", which said plat is duly recorded in the Clerk's Office of the Circuit Court of the City of CHESAPEAKE, Virginia, in Map Book 62, at page 41.

6. Movant is informed and believes, and, based upon such information and belief, alleges that title to the subject Property is currently vested in the name of Vivian Ann Frances, heir to the estate of Moses Blount Sr. and Edna M. Blount, deceased (original borrower).

7. According to paragraph 9.(a) of the deed of trust and paragraph 7.(a) of the note dated October 31, 2006, the lender may require immediate payment in full of all outstanding principal and accrued interest if : (i) A borrower dies and the property is not the principal residence of at least one surviving borrower, or (ii) all of a borrower's title in the property is sold or otherwise transferred. The borrower, Edna Blount, died on July 5, 2011. The borrower, Moses Blount Sr., died on April 19, 2012.

8. The Debtor(s) are not on the note. The loan is due for the total payoff in the amount of \$247,737.65. The loan matured upon the death of the original mortgagors Edna Blount and Moses Blount Sr.

9. Movant has elected to initiate foreclosure proceedings on the Property with respect to the subject Trust Deed, but is prevented by the Automatic Stay from going forward with these proceedings.

10. Continuation of the automatic stay of 11 U.S.C. § 362(a) will work real and irreparable harm and deprive the Movant of the adequate protection to which it is entitled under 11 U.S.C. § 362 due to the aforementioned facts.

11. Movant requests that the Court set a hearing on this motion.

WHEREFORE, Movant prays for an order granting relief from Automatic Stay in order to pursue its remedies under the terms of its Note and Deed of Trust, that the fourteen (14) day waiting period imposed by F.R.B.P. 4001(a)(3) be waived, for its attorneys fees and costs expended, and for such other and further relief as the Court and equity deem appropriate.

Dated: May 2, 2013

SHAPIRO BROWN & ALT, LLP
Attorneys for Movant

By: /s/ Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777 13-232714

NOTICE

Please take notice:

YOU MUST FILE A WRITTEN RESPONSE WITHIN 14 DAYS AFTER SERVICE OF THIS MOTION WITH THE COURT, WITH A COPY TO THE COUNSEL FOR THE MOVANT AT THE ADDRESS INDICATED BELOW.

OneWest Bank, FSB

By: /s/ Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445
SHAPIRO BROWN & ALT, LLP
236 Clearfield Avenue, Suite 215
Virginia Beach, Virginia 23462
(757) 687-8777

CERTIFICATE OF SERVICE

I certify that I have electronically transmitted and/or mailed via first class mail, postage prepaid, a true copy of the above Motion for Order Granting Relief from Automatic Stay on the 2nd day of May, 2013, to the following:

Steve C. Taylor
Law Offices of Steve C. Taylor, P.C.
133 Mt. Pleasant Road
Chesapeake, VA 23322

John C McLemore
John C. McLemore, P.C.
500 E. Main Street, Suite 1210
Norfolk, VA 23510

Antonio Cornelius Frances and Vivian Ann Rances
241 COACHMAN DRIVE
Chesapeake, VA 23325

/s/ Susan C. Meyer

Susan C. Meyer, Esquire, VSB #43445